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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/601,375	09/21/2000	Selwyn Reed	1367-4	2297

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EXAMINER

UPTON, CHRISTOPHER

ART UNIT	PAPER NUMBER
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1724

19

DATE MAILED: 02/12/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

601375

Applicant(s)

Reed

Examiner

Upton

Group Art Unit

1724

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Status

- ☒ Responsive to communication(s) filed on 11/27/02
- ☐ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- ☒ Claim(s) 33-48 is/are pending in the application.
- Of the above claim(s) _____ is/are withdrawn from consideration.
- ☐ Claim(s) _____ is/are allowed.
- ☒ Claim(s) 33-48 is/are rejected.
- ☐ Claim(s) _____ is/are objected to.
- ☐ Claim(s) _____ are subject to restriction or election requirement.

Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

- ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- ☒ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been received.
- ☐ received in Application No. (Series Code/Serial Number) _____.
- ☒ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

Attachment(s)

- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____
- ☐ Interview Summary, PTO-413
- ☐ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Other _____

Office Action Summary

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1. Claims 33-45 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 33, "waste body" lacks antecedent basis. Also, the dependency of the claims should be checked and corrected, if desired. For example, claim 37 recites that the outlet extends from a low point, while dependent claim 38 recites that the outlet extends from a side wall. Similarly, claim 42 recites a downward outlet and claim 43 recites a lateral outlet. While it is possible for an outlet to extend in a lateral downward direction from a side wall at a low point, it appears from the specification and drawings that these are alternatives.

2. Claims 41 and 44 are objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form.

Claim 41 recites the insert closing the mouth of the receptacle and claim 44 recites the mouth being closes by a lid which receives the appliance outlet. These recitations do not further limit the recitations of the insert forming a lid closing the receptacle and the appliance outlet being positioned in an opening in the lid of claim 33.

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3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 33, 34 and 46-48 are rejected under 35 U.S.C. 102(b) as being anticipated by PCT application WO 80/01701.

The PCT application discloses a drain receptacle with an insert permitting positioning of an outlet at any position within the perimeter (see page 2, lines 28-35), which is disposed under a floor surface (7), such that surface water can escape only via the inside of the receptacle (note seals 16 and 17) as claimed.

5. Claims 35-45 are rejected under 35 U.S.C. 103(a) as being unpatentable over the PCT application WO 80/01701 as applied to claim 34 above, and further in view of Sisk or Decker.

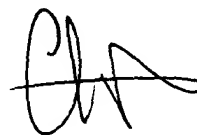
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Claim 35 and its dependent claims differ from claim 34 in recitation of projections on the bearing forming passages between the bearing surface and the inlet. It is well known to provide such passages in a drain receptacle by projections on the insert, as exemplified by Sisk and Decker. It would therefore have been obvious for one of ordinary skill in the art to add such passages to the drains of the references applied to claim 34, to insure better drainage. With respect to the recitation of the projections being on the bearing instead of on the insert, it is submitted that the location of the projections does not affect the function, and therefore the location of the projections would have been a matter of design failing to patentably distinguish over Sisk and Decker, absent a declaration of unexpected results.

6. Applicant's arguments filed on October 28, 2002 have been fully considered but they are not persuasive.

Applicant argues that the present arrangement is below the floor level. It is submitted that this is shown by PCT application WO 80/01701. Applicant further argues that in the instant invention, water can escape only through the receptacle. It is submitted that this also is shown in the PCT application, as water cannot escape without entering the receptacle, due to the presence of the floor and the seals.

7. Any inquiry concerning this communication should be directed to Christopher Upton at telephone number (703) 308-3741.



CHRISTOPHER UPTON
PRIMARY EXAMINER